



September 8, 2023

Ms. Chiquita Brooks-LaSure
Centers for Medicare & Medicaid Services
7500 Security Boulevard
Baltimore, MD 21244

Administrator

Re: CMS-1784-P

Dear Administrator Brooks-LaSure:

The [Digital Health Equitable Health \(DHEH\) Alliance](#) is pleased to provide the Centers for Medicare & Medicaid Services (CMS) with comments regarding the *Medicare and Medicaid Programs; CY 2024 Payment Policies under the Physician Fee Schedule and Other Changes to Part B Payment and Coverage Policies; Medicare Shared Savings Program Requirements; Medicare Advantage; Medicare and Medicaid Provider and Supplier Enrollment Policies; and Basic Health Program Proposed Rule*.

DHEH is a multi-stakeholder coalition aimed at creating a more digitally inclusive society that facilitates improved health and well-being for underserved populations. It is out of DHEH's commitment to addressing the substantial equity gap in our healthcare system that we share our comments.

Initiatives Promoting Health Equity

DHEH applauds CMS' goal of increasing health equity including through the provisions in this proposal; we encourage the Agency to finalize proposals related to coding and payment for several new services to help underserved communities. These include certain caregiver training programs, separate coding and payment for community health integration services, payment for principal illness navigation services, and coding and payment for social determinants of health risk assessments.

Medicare Telehealth Policies

DHEH also supports the proposals extending several telehealth provisions, consistent with the extension of telehealth flexibilities provided under the *Consolidated Appropriations Act, 2023*, through December 21, 2024. Specifically, DHEH supports the Agency's proposal to maintain its current definition of direct supervision to permit the presence and "immediate availability" of the supervising practitioner through real-time audio and visual interactive telecommunications. The Agency notes that they will continue to evaluate this policy through CY 2024 and reassess the policy in subsequent rulemaking. As such, DHEH recommends that direct supervision be applied permanently. Maintaining direct supervision increases access to quality care, allowing individuals in rural and underserved areas to have improved access to care. Expiration of this policy could create substantial barriers to access to many healthcare services, including those furnished incident-to a physician's service.

Further, DHEH supports the delay of the in-person requirement for telemental health services, extending payment for audio-only telephone visits and expanding originating sites to include where the beneficiary is located at the time of the telehealth service, including an individual's home. Taken together, these proposed changes would be continued progress toward broader adoption and utilization of telehealth for Medicare providers and beneficiaries in a post-PHE regulatory environment.

Request for Information (RFI) on Digital Therapeutics

DHEH appreciates the inclusion of a request for information (RFI) on digital therapeutics to improve CMS' understanding related to its coverage and payment policies. Health technologies like digital therapeutics have demonstrated benefits in improving access to care, reducing disease burdens, helping providers make more informed treatment decisions, and improving patients' lives by offering better ways to manage chronic health conditions.

In the RFI, CMS poses the question about the role digital therapeutics for behavioral health play in supporting disadvantaged/hard-to-reach populations in advancing equity in health services. As we are all aware, the pandemic exacerbated the challenges people face in accessing care. For example, the appropriate specialist doesn't exist in many areas or requires a significant wait. Thus, new and innovative treatment approaches, like digital therapeutics, are needed to fill these gaps in access and quality. Because digital therapeutics are scalable, they can help expand access to treatment, including those from medically underserved communities. For example, in the behavioral health arena, these technologies are typically accessed via patients' smartphones or desktop computers, and a patient can access a therapy meeting and employ the techniques they're learning to help manage their care. They can access those techniques wherever and whenever needed. That kind of convenience removes access and stigma barriers that can often prevent people from underserved communities from seeking care.

As this technology advances, these tools must continue to address existing disparities, such as the cultural and linguistic appropriateness of service, familiarity, and comfort with technology among the diverse population of people with Medicare. Notably, as the technology matures, more and more manufacturers will be able to tailor these treatment approaches to patients from different genders, races, and ethnicities to deliver treatments that most resonate for those communities and that are culturally responsive while also maximizing clinical outcomes.

However, for the promise of these technologies as a tool for addressing health equity to take hold, payers, including CMS, must provide coverage and reimbursement. As the landscape for these digital treatments develops across multiple therapeutic areas, challenges related to coverage, reimbursement, and access must be solved to advance broader adoption and utilization.

The current pace of scientific innovation across digital therapeutics requires a commensurate pace of innovation in CMS regulatory policy to ensure that these valuable innovations will be accessible to Medicare patients without delay. CMS has the statutory authority to interpret and modernize its Medicare benefit categories, including digital health technologies. Coverage under a new Medicare benefit category or a revised interpretation of existing benefit categories for these technologies would bolster the innovation ecosystem.

Conclusion

DHEH looks forward to working with CMS to advance health equity, expand coverage, and improve health outcomes. We greatly appreciate this opportunity to provide feedback to CMS. Should you have any questions, please contact Miranda Franco at Miranda.Franco@hklaw.com or 202-469-5259.